REMARKS

Status of the Claims:

Claims 1, 52, and 65 have been amended. Claims 68 and 69 have been added. After amending the claims as set forth above, claims 1-23 and 49-69 are now pending in this application.

Interview Summary

Applicant expresses appreciation to the Examiner (Mr. Phillip Gray) for the courtesy of the interview conducted on March 19, 2010 with the Applicant's representative (Mr. Michael Taveira).

The issues discussed in the interview included the Lafontaine reference and the current pending claims. In particular, the Examiner acknowledged that the device of the Lafontaine reference does not disclose a sensor that is moveable relative to a catheter and a stent. The Examiner further acknowledged that amendments to the claims covering such would be distinguished from Lafontaine.

I. Claim Rejections – 35 U.S.C. § 103

A. The Barry and Lafontaine References

Claims 1-11, 14-23, and 49-67 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Barry (US Pat. Appln. No. US2002/0077592 A1) and Lafontaine et al. (US Pat. 5,665,103) (Lafontaine). These rejections are respectfully traversed in view of the claims as amended herein.

Independent claim 1 recites a method for mitigating restenosis at a trauma site at which a stent is located within the vasculature comprising:

> positioning a catheter adjacent the trauma site;
>
> positioning **a sensor moveable relative to the catheter and the stent;**
>
> **extending the sensor, relative to the catheter and the stent,** through a lumen in the catheter and through the stent to a position located outside of the catheter and outside of the stent; and

delivering a restenosis mitigating drug to the trauma site through the catheter;

wherein the sensor comprises an analyte sensor, physiological parameter sensor, biological parameter sensor, biochemical parameter sensor, or chemical parameter sensor.

(Similar features are found in independent claim 52.)

Thus, the method includes extending **a sensor that is moveable, relative to a catheter (adjacent a trauma site) and a stent**, through a lumen in the catheter and through the stent to a position located **outside of the catheter** and **outside of the stent**. Barry and Lafontaine, alone or in the combination suggested by the Examiner do not teach, suggest, or render predictable a method, as recited in claim 1, including these features.

According to the Examiner, Barry discloses "a replenishable stent and drug delivery system (see figures 1-16 and paragraphs at [0002]-[0048] generally, specific embodiments at [0067]-[0097])." *See* p. 3 ll. 6-8 of the Office Action dated December 23, 2009 (*Office Action*).

As acknowledged by the Examiner, Barry does not disclose "extending the sensor 'through the stent to a position located outside of the catheter and outside of the stent.'" As such, Barry does not disclose extending **a sensor that is moveable, relative to a catheter and a stent**, through a lumen in the catheter and through the stent to a position located outside of the catheter and outside of the stent.

As a result, the Examiner cites Lafontaine, which as the Examiner argues, discloses "that it is known to use the step of extending the sensor through the stent to a position located outside of the catheter and outside of the stent (see Lafontaine figure 1b, 3-4) as set forth in paragraphs beginning at column 6-8, to provide the surgeon a measurement of where the stent is located within the vasculature and in reference to the stent on a low profile device." *See Office Action* at p. 4 ll. 4-9.

However, as discussed in the interview, Lafontaine does not address the distinction between claim 1 and Barry. In particular, Lafontaine does not disclose extending **a sensor that is moveable, relative to a catheter and a stent**, through a lumen in the catheter and through the stent to a position located outside of the catheter and outside of the stent.

To establish a prima facie obviousness of a claim invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981 (CCPA 1974). Because none of the references disclose or suggest the recited features, there can be no prima facie obviousness by seeking to combine these references.

Therefore, for at least the reasons above, Barry and Lafontaine do not anticipate, suggest, or render predictable independent claims 1 and 52. Claims 2-11, 14-23, 49-51, 55-58, and 63-67 depend from claim 1 (directly or indirectly) and are allowable for at least the same reasons as claim 1 is allowable. Claims 53, 54, and 59-62 depend from claim 52 (directly or indirectly) and are allowable for at least the same reasons as claim 52 is allowable. Accordingly, the rejections of claims, as amended herein, are respectfully traversed.

B. The Barry, Lafontaine, and Silver References

Claims 12-13 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Barry, Lafontaine, and Silver (USPN 6,442,413). These rejections are respectfully traversed in view of the claims as amended herein.

Claims 12-13 depend from claim 1 (directly or indirectly) and are allowable for at least the same reasons as claim 1 is allowable. Specifically, as discussed above, Barry and Lafontaine do not disclose a method for mitigating restenosis at a trauma site at which a stent is located within the vasculature including extending **a sensor that is moveable, relative to a catheter and a stent**, through a lumen in the catheter and through the stent to a position located outside of the catheter and outside of the stent.

According to the Examiner, Silver discloses an implantable glucose sensor that can be used for implantation in a blood vessel. *See Office Action* at p. 6 ll. 7-11. However, Silver does not discuss the recited feature.

To establish a prima facie obviousness of a claim invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981 (CCPA 1974). Because none of the references disclose or suggest the recited features, there can be no prima facie obviousness by seeking to combine these references. Thus, claims 12 and 13 are allowable. Accordingly, the rejections of claims 12 and 13, as amended herein, are respectfully traversed.

C. The Barry and Lafontaine References

Claims 4 and 19-23 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Barry and Lafontaine. These rejections are respectfully traversed in view of the claims as amended herein.

Claims 4 and 19-23 depend from claim 1 (directly or indirectly) and are allowable for at least the same reasons as claim 1 is allowable. Specifically, as discussed above, Barry does not disclose a method for mitigating restenosis at a trauma site at which a stent is located within the vasculature including extending **a sensor that is moveable, relative to a catheter and a stent**, through a lumen in the catheter and through the stent to a position located outside of the catheter and outside of the stent.

According to the Examiner, "[the drugs of claims 19-23 are] implicitly stated in the Barry in view Lafontaine reference and thus an appropriate rejection. However if not directly disclosed in Barry in view Lafontaine, they are obvious." *See Office Action* at p. 6 ll. 19-22. However, the Examiner's argument does not discuss the recited feature.

To establish a prima facie obviousness of a claim invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981 (CCPA 1974). Because none of the references disclose or suggest the recited features, there can be no prima facie obviousness by seeking to combine these references. Thus, claims 4 and 19-23 are allowable. Accordingly, the rejections of claims 4 and 19-23, as amended herein, are respectfully traversed.

II. New Claims:

New claims 68-69 are added to further protect additional features of the present invention.

Claim 68 generally recites, among other features, the sensor moveable relative to the catheter and the stent simultaneously. This claim is supported by the original application, for example, in Fig. 1 and paragraphs [0023], [0024], [0028], and [0029]. This claim is not disclosed in the cited reference(s). Moreover, this claim is allowable at least for the reasons of its parent claims and/or the reasons previously discussed.

Claim 69 generally recites, among other features, wherein the sensor is moveable, in the direction in which blood flows out of the stent, independent of the catheter. This claim is supported by the original application, for example, in Fig. 1 and paragraphs [0023], [0024], [0028], and [0029]. This claim is not disclosed in the cited reference(s). Moreover, this claim is allowable at least for the reasons of its parent claims and/or the reasons previously discussed.

III. Conclusion:

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 3-22-10

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